



ABSTRACT  
OF THE  
MUNICIPAL CODE  
OF THE  
PROVINCE OF QUEBEC  
FOR THE USE OF  
THE ROAD OFFICERS



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QUEBEC

1878.



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MUNICIPAL CODE

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(35)

THE ROAD OFFICER



ABSTRACT  
OF THE  
Municipal Code of the Province of Quebec  
FOR THE USE OF  
THE ROAD OFFICERS

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SECTION III  
OF ROAD INSPECTORS.

376. The road inspector is bound to superintend all work ordered to be done in the constructing, improving or keeping in repair of local or county municipal roads, side-walks and bridges, situated within the limits of his division, and to take care that such work be performed in conformity with the provisions of the law, *procès-verbaux*, or by-laws which govern it, unless he be exempted therefrom by an order of the council or of the board of delegates under whose direction such work is being done, or unless a special officer has been appointed to superintend such work.

If any county municipal road is situated partly in one division and partly in another, it is under the joint and several superintendence of the inspectors of the two divisions.

377. Ferries are also under the superintendence of the inspector of the road division, within the limits of which they are situated unless they have been placed by the council under the superintendence of another officer.

378. Every road inspector appointed for a division has jurisdiction over every person liable to perform the works under his superintendence, whether such person is domiciled within or without the limits of his division.

379. Whenever the inspector of a road district is for any reason whatever, temporarily incapable of acting, the local council may appoint some person to replace him during such incapacity; in default of which the mayor must, during the continuance of such incapacity,

place the division under the jurisdiction of another road inspector of the municipality, by a written order served on such inspector.

Such inspector is not thereby released from the superintendence of the division for which he had been in the first instance appointed.

380. The road inspector, is so far as regards his relations to the county works, whereof he has the superintendence, is an officer of the county council.

"Whenever a road inspector is personally interested in any work or other matter within his jurisdiction, and neglects or refuses to execute or supply, that which he is bound to execute or supply, that which he is bound to execute or supply, as interested in such work or matter, the secretary-treasurer of the local municipality wherein such inspector has jurisdiction, possesses in relation to such inspector the same rights, powers and obligations as the inspector himself, in relation to all persons interested in the same work or matter.

In respect of works to be performed in common the inspector so interested is always *in mora*, to fulfil the obligations attaching to such work."

381. Every road inspector who refuses or neglects without reasonable cause, to perform any duty which is imposed upon him by the provisions of this code or of municipal by-laws, or which is required of him in virtue of such provisions, or to obey the orders of the local or county council, in respect of the works which are under his superintendence, incurs, in addition to damages caused for each case of neglect or refusal, a penalty of not less than one or more than twelve dollars, except in cases otherwise provided for.

382. (As amended by 36 Vict., ch. 21, s. 10.) Whenever any work must be performed in common upon any municipal roads or bridges, it is the duty of the road inspector of the division to notify specially the persons who are liable to perform such work, by special notice either verbally or in writing, or by public notice of three days:

1. Of the time and place where such work must be performed;
2. Of the quantity and description of materials which are required, and of the time and place where they must be provided;
3. Of the amount of labor which each must contribute;
4. Of the description of tools and implements required, which must be of the kind ordinarily used by farmers in the municipality.

However, if the work to be performed in common is not sufficient in the opinion of the council, to justify the making of a call upon the rate payers interested, the road inspector may cause such work to be performed and the cost thereof to be paid in equal proportions by the rate payers interested in such work as well as the costs of the collection which shall be taxed by the said council.

383. If the nature of the work demands it, he may require each of such persons to bring or to cause to be brought a certain number of horses or oxen, with proper harness, carts or ploughs, if he have taem.

Every day's labor of a horse or yoke of oxen, with harness, carts or ploughs, is credited to the person who brought the same, as one day's work.

384. It is the duty of the road inspector :

1. To direct and superintend the execution of all such work :
- 2 To fix the hour of commencing and leaving off such labor, and the time for rest and meals, so that the day may consist of ten clear hours of labor on the spot where the work is to be done :
3. To dismiss any person who is idle, who hinders the others from working, or who refuses to obey his orders.

He may at once fill up the place of any person who has not attended at the hour appointed for labor, or who has been dismissed, at the costs of the person so in default ; such costs may be recovered by the substitute or by the inspector in the manner prescribed for the recovery of penalties imposed by this code.

385. The road inspector must, on resolution of the local council to that effect, procure and keep under his charge, a snow plough, a roller, an iron or steel shod scraper or other implements to be used on the municipal road in his division.

Every person who is bound to perform work on municipal roads, may be compelled by the road inspector of the division, to make use of such implements as part of the road work he is bound to perform.

The use of such implements is gratuitous, and the outlay incurred for their purchase and repair falls upon the local corporation.

386. The inspector of roads must forthwith, or at the expiration



of the delay granted in cases which come under the provisions of article 389, cause the removal or suppression of all obstructions and nuisances from the municipal roads, side-walks, ferries and bridges, within the limits of his jurisdiction, by the persons who have occasioned them, or in the event of their refusal or neglect, by any other person whom he authorizes so to do, at the costs of the person in default.

Such costs are recovered in the same manner as penalties imposed by the provisions of this code, and the local corporation is answerable therefor if the person in default is without means.

If the person who occasioned such obstructions or nuisances is unknown, they must be removed at the expense of the corporation of the local municipality.

387. The following are deemed obstructions or nuisances ;

1. Filth, dead animals, or other objects placed or left on any municipal road or bridge, or in any watercourse or ditch connected with such road or bridge ;

2. Any trench or opening made in any municipal road :

3. The anchoring or mooring of any vessel, boat or other floating object, at the landing place of any ferry, so as to impede free approach to the beach or to a quay.

388. Whoever has committed any act which may have the effect of obstructing, impeding or rendering inconvenient the free passage of vehicles or foot passengers over any part of a municipal road, side-walk or bridge, or of impeding the free course of water, in connection with such works, is deemed to have occasioned an obstruction or nuisance, within the meaning of the two preceding articles.

389. Whenever such obstruction arises in the course of some work duly authorized by law, by the council, or by the road inspector, under the provisions of any by-law or resolution passed in virtue of article 476, the same is not deemed an obstruction, within the meaning of those articles.

390. Whenever any such duly authorized work is in course of execution on any municipal road, side-walk or bridge, excavations and other dangerous places must be pointed out, both by day and night, in such a manner as to prevent accident, under a penalty not exceeding twenty dollars, for each day during which the provisions

of this article are contravened, in addition to any damages occasioned thereby.

**391.** Whoever causes any obstruction or nuisance on any municipal road, side-walk, ferry or bridge, or renders the use thereof difficult or dangerous, incurs for each offence, over and above the damages occasioned thereby, a penalty of not less than two or more than ten dollars.

**392.** The road inspector of the division must make a report to the council respecting any encroachments on the road, side-walks, bridges, and other municipal public works which are under his superintendence.

**393.** Every road inspector, and every person who accompanies him, or who is authorized by him in writing, may, in the day-time, without previous notice, enter upon any land whatever, whether occupied or unoccupied, inclosed or uninclosed, for the purpose of making a survey for any road, or upon any unoccupied land, for the purpose of searching for timber, stone or materials necessary to carry on any public work, by making compensation for actual damage done.

**394.** Every road inspector entrusted with the superintendence or direction of labor on any road, bridge, or other public work, may, by himself or by others acting under his direction, and without previous notice, enter in the day-time, to the distance of one arpent from such public work upon any unoccupied land and take therefrom any materials requisite for such work, except fruit-trees, maples, planes, and any other trees preserved for ornament.

**395.** Such inspector must, as soon as possible, declare on oath, what he believes to be the value of the damage occasioned by the taking of such materials.

If the amount of damage exceeds twenty dollars, it must be assessed by the valutors of the municipality, according to the rules laid down in article 902 and the following articles of the title of expropriation for municipal purposes.

**396.** The amount of damage is paid by such road inspector, out of the moneys placed in his hands for defraying the cost of such

works, to the person who has suffered the damage, all municipal taxes, fines or costs due by such person to the corporation or its officers, being previously deducted therefrom. In default of such moneys, it is payable by the corporation, saving its recourse against the persons bound to perform such works.

397. The road inspector may, without being authorized by the council, perform or cause to be performed, the works required on any municipal front road, by-road, side walk, or bridge, within the limits of his jurisdiction, which have not been performed in the manner or at the time prescribed by the persons bound to perform such works.

He may also furnish, or cause to be furnished, the materials which should have been furnished for such public works, and which have not been so furnished in the manner or at the time prescribed.

Nevertheless, the cost of the work performed and the materials furnished, in virtue of this article, must not exceed five dollars each year for each piece of land liable for such work, unless the road inspector has previously served on the persons liable for such municipal works, a special notice, either verbal or written, enjoining them to perform such work or to furnish the materials required, within a delay of four days, the whole without prejudice to the penalties or damages incurred by such persons, by reason of their default to execute such work or to furnish such materials in the manner and within the delay prescribed by the *procès-verbaux*, by the by-laws or by-law.

In every case, the road inspector who has performed work, or caused the same to be performed, or furnished materials, or caused the same to be furnished, under this article, must, as soon as possible, inform the persons in default thereof, by a special notice, containing a statement of the amount due for such works or materials.

398. The value of such works or materials, with twenty per cent in addition thereto, may be recovered by the inspector of roads, as a debt due to himself, together with costs against any person bound to perform such works or furnish such materials, in the manner prescribed for the recovery of penalties imposed by the provisions of this code.

399. If the road inspector does not comply with the provisions

of article 397, when the labor or materials required on any municipal works, in his division, have not been performed or furnished in the manner and at the time prescribed, he must report thereon to the council.

400. The council, on such report, authorizes the road inspector to cause the work to be done or the required materials to be furnished at the cost of the corporation, by some person selected either by it or by the inspector.

401. The cost of such works or materials, is paid on the order of the road inspector, by the secretary-treasurer of the council, and is recovered by the corporation from the persons in default, with twenty per cent, over and above the amount thereof, and costs, in the manner prescribed for the recovery of penalties imposed by this code.

402. The amount of any judgment rendered in favor of the road inspector or of the corporation, on any action brought to recover the value of the works performed or the materials furnished by either the road inspector or the corporation, and the twenty per cent in addition thereto, together with interest and costs, is assimilated to municipal taxes.

403. In every action brought, either by the road inspector or by the corporation to recover the value of such works or materials, the evidence of the road inspector is sufficient proof, if it is not contradicted by a witness worthy of belief, in the case where he establishes :

1. That the required formalities have been observed ;
2. That the works have been executed, and the materials furnished.
3. That the amount claimed is the real value of such works or materials ;
4. That the defendant is a person legally liable for the same.

404. The road inspector must, between the first and fifteenth days of June and October, in each year, and moreover whenever he is required by the council or mayor :

1. Go over and inspect the municipal ferries, roads, side-walks and bridges in his division ;

2. Mark down the state in which he finds such ferries, roads, side-walks and bridges, and the works in connection therewith ;

3. Make note of any person who has neglected to fulfil his obligations, and prosecute him in the name of the corporation ;

4. Make a report in writing containing the substance of the notes he has taken and the information he has obtained since his last report, on every public work under his superintendence, and further stating the arrears of labor unperformed or of materials unfurnished, the value in money of such labor or materials, and the penalties and costs remaining unpaid, specifying the lands in respect of which the same are due, and the owners or occupants of such lands, if known.

405. When a municipal bridge or one forming part of a municipal road, or a bridge over a water-course is destroyed or broken, or whenever the use thereof becomes dangerous, or when the use of the said road becomes difficult or dangerous the mayor of the local municipality in which such bridge or road is situated either in whole or in part, whether such work is a local or a county work, may in cases of urgent necessity, authorize the road inspector or any other person to reconstruct or repair the same, or to make a safe temporary bridge or crossing, at the expense of the local corporation.

The cost of such work is recoverable by the local corporation, from the persons or corporation who are liable therefor in virtue of the law, by-laws or *procès-verbaux*, in the manner laid down for the recovery of penalties imposed by this code ; and the amount of the judgment with interest and costs in assimilated to municipal taxes.

#### SECTION IV

##### OF RURAL INSPECTORS.

406. Rural inspectors are bound to do whatever is required



of them, in virtue of the provisions of this code, respecting public nuisances, clearances, boundary ditches or boundary fences.

They are bound to superintend all works of construction, improvement or repair, ordered upon local or county municipal water courses, situated within the limits of their divisions, and to take care that such works be performed according to the provisions of the law, *procès-verbaux*, or by-laws which govern them, unless they are exempted from so doing by an order of the council or of the board of delegates under whose direction such works are being executed, or unless a special officer entrusted with the superintendence of such works has been appointed.

They are also bound within the limits of the division for which they have been appointed, to perform all the other duties which are imposed upon them by the provisions of this code or by municipal by-laws.

407. The rules laid down in articles 378, 379, 380 and 381, regarding road inspectors, apply also, *mutatis mutandis*, to rural inspectors.

Articles, 382, 383 and 384, are also applicable to such officers, when joint labor must be done upon water-courses.

408. The provisions of articles 397, 398, 399, 400, 401, 402 and 403, respecting the execution of work prescribed on municipal roads, side-walks and bridges, by the road inspector or by the council in the name of the corporation, upon the default of the person liable for such work, and respecting the recovery of the value of such work apply with similar effect to work prescribed either under the provisions of this section, or prescribed on municipal water-courses, for the execution of such works by the rural inspector of the division, or by council in the name of the corporation, upon the default of the persons liable, and to the recovery of the value of works executed by such inspector or council.

409. Whenever the services of a rural inspector are required under the provisions of the four following paragraphs of this section, in any locality situate partly within the limits of the jurisdiction of one rural inspector and partly within the limits of the

jurisdiction of another, one or other of such inspectors may be required to act.

410. Every rural inspector, when required to act under the provisions of the four following paragraph of this section, is entitled to ten cents for every hour employed in visiting the localities as well as in managing and superintending the works, if he does not perform them himself.

He has also a right to be repaid any necessary outlay and costs incurred by him for notices, or other papers requisite made under the same provisions.

Such costs are paid by the person whom the rural inspector finds in default. If no person is in default, they are paid by the party who demands the services of the municipal officer. In case of common or joint works, they are paid by all the parties interested, if they are all in default.

In case of refusal or contestation, they are recovered in the same manner and with the same rights and privileges as the value of municipal works performed by the road inspector.

411. The rural inspector whose services have been required by the municipal council, or for the benefit of the corporation, is not entitled to any fee from the latter: the council may, nevertheless, allow him one.

412. Every special notice or order given by a rural inspector may be given either verbally or in writing, saving in cases otherwise provided for.

Every order given by a rural inspector is given by special notice, subject to the provisions of article 228.

413. The rural inspector and any person interested may require from any possessor, tenant or occupant of any land, in the same manner as from the owner of such land, the fulfilment of every obligation imposed upon such owner in regard to clearings, boundary ditches boundary fences or water-courses, saving the recourse of such possessor, tenant, or occupant, against the proprietor, if any there be.

414. The rural inspector must, on being authorized for such

purpose by the mayor or the secretary-treasurer of the local council, make or cause to be made, at the expense of the corporation, in the snow or ice, trenches and all other works which are required to prevent floods and to facilitate the water in running off.

## § I.

### PUBLIC NUISANCES.

415. Whenever any filth or dead animal has been deposited upon any property whatever or in a water-course, stream or river, it is the duty of the rural inspector of the division, within twenty-four hours after he has received a special notice, either written or verbal, so to do, to have such filth or dead animal removed by the person who deposited it.

If the person who has deposited such filth or dead animal is unknown, it is the duty of the rural inspector, within the same delay, to cause the same to be removed at the expense of the corporation.

416. Whoever deposits or causes to be deposited, any filth or dead animal upon any of the localities mentioned in the preceding article, incurs over and above any damages occasioned thereby, the penalties prescribed by article 391.

## § II.

### CLEARANCES.

417. The rural inspector, on either the written or verbal requisition of any owner or occupant of land in a state of cultivation, who requires a clearance to be made by his neighbour in virtue of article 531 of the civil code, must attend at the place where such clearance is required, after giving special notice of eight days in writing to the parties interested.

After an examination of the locality, and on proof that such clearance is necessary and has been demanded by special notice

in writing, served before the first day of the preceding month of December, he enjoins by written order that within the thirty days next following, all shrubs which are of a nature to harm the cultivated land within an extent of fifteen feet in depth along the whole line of separation of such lands, and all trees which are found within such extent, casting a shade upon such cultivated land, saving those excepted by law, or reserved for the embellishment of the property be cut down.

418. Whoever refuses or neglects to obey the orders of the rural inspector relative to the clearance, incurs, without prejudice to the execution of such orders, a penalty not exceeding two dollars for each arpent in length of such clearance, for the first year, and for every subsequent year a penalty equal to double that of the preceding year, over and above all damages occasioned to the cultivated land.

419. The damages resulting from the refusal or neglect to make the clearance as required by the rural inspector, are established by three experts appointed as follows: one by each of the interested parties, and the third by the two experts so appointed.

If one of the parties refuses to appoint an expert, he is appointed by a justice of the peace on the demand of the other party.

### § III.

#### BOUNDARY DITCHES.

420. The rural inspector, upon the written or verbal application of any owner or occupant who demands the opening up of a boundary ditch between his land and that of his neighbour, must visit the locality of such proposed boundary ditch, where, after an examination of the place, and a hearing of the parties interested who have received three days' special notice thereof, he orders the performance of any works which he deems necessary, and determines how and by whom they must be executed.



421. The rural inspector, on the written or verbal application of one of the neighbours who complains of the insufficiency or bad condition of the common or joint boundary ditch or of the part thereof for which his neighbour is liable, must, if it is necessary, order the person in default, to deepen, cleanse and repair such ditch or part of a ditch, or to do his share of such work within a fixed delay. Such delay must not exceed the time absolutely necessary to perform such work.

In case the work be not performed within such delay, the inspector may authorize the complainant to do the work himself, the cost thereof to be recovered in the same manner as penalties under this code.

422. He may, at the same time, order the party complaining to deepen, cleanse or repair that part of the boundary ditch for which he is liable, within the same delay, if he finds such part insufficient or in bad condition.

423. Whoever refuses or neglects to comply with the orders of the rural inspector given in virtue of the preceding provisions of this paragraph, incurs, over and above the damages resulting from the defect or insufficiency of his ditches, and without prejudice to the execution of such orders, a penalty not exceeding one dollar for every arpent in length of such ditch, which he has to make, every fraction of an arpent being counted as an entire arpent.

424. Whoever obstructs or allows any boundary ditch to be obstructed in any manner whatsoever, is liable to a penalty not exceeding one dollar for every day such ditch is so obstructed.

#### § IV.

#### BOUNDARY FENCES.

425. The rural inspector of the division, on the written or verbal application of any owner or occupant who demands the construction or repair, or any works necessary for the preservation of a boundary fence between his land and that of his neighbour, in virtue of article 505 of the civil code, must visit the boun-



dary in question, where after having heard the interested parties, duly notified thereof by a special notice of three days, and examined the works required, he orders any party in default, whether complainant or not, to construct or repair his boundary fence so that it be good and firm, within the delay determined by such inspector. Such delay must be as short as possible.

425a. (*Added by 36 Vict., ch. 21 s. 11.*) In the event of the works not being executed within such delay, the rural inspector may authorize either the complainant himself or any other person to execute the same, or to cause the same to be executed, and the cost thereof is assimilated to municipal taxes if it is not recovered in the same manner as penalties under the authority of this code. 41 Vict. C. 18.

426. The rural inspector cannot order the making, in a rural municipality, of a new fence, or the repairing of an old one when so dilapidated that the cost of repairing it would be equal to that of a new one, unless the party bound to do such work has received special notice in writing, to such effect, before the first day of the preceding month of December.

427. Article 423 relative to boundary ditches, applies also to persons liable for boundary fences.